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10/517,400	06/10/2005	Akiko Asami	112857-397	3975
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BELL, BOYD & LLOYD, LLP			PATEL, ASHOKKUMAR B	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/517,400	ASAMI, AKIKO	
	<b>Examiner</b>	<b>Art Unit</b>	
	ASHOK B. PATEL	2456	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 05 August 2008.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-36 is/are pending in the application.

4a) Of the above claim(s) 1-18 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 19-36 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_.

## DETAILED ACTION

1. Claims 1-36 are subject to examination. Claims 1-18 are cancelled.

### ***Response to Arguments***

2. Applicant's arguments filed 08/05/2008 have been fully considered but they are not persuasive for the following reasons:

#### **Applicant's argument: (For all independent claims 19, 27, 28, 30, 34 and 35)**

“Support for the amendments can be found at, for example, p. 23, lines 12-13 of the Preliminary Amendment dated November 2, 2005. “

#### **Examiner's response: (For all independent claims 19, 27, 28, 30, 34 and 35)**

Examiner was not able to locate the support for amendments in the preliminary amendment dated November 2, 2005.

#### **Applicant's argument: (For all independent claims 19, 27, 28, 30, 34 and 35)**

“Shiloh teaches away from this: "For example, the user may construct an image and/or voice of the virtual entity, by selecting among a variety of choices made available on the AVPP website, which choices may include selection of body parts that may be combined into a *unique image* representing the virtual entity. The virtual personalities created or acquired by users 110 and 111 may be the equivalent of any real world entities, such as people, animals (e.g., pets), or corporations. The *customized virtual entities* may be used to surf the Internet, and to interact with other real and/or virtual entities on the Internet, *being limited only by their imagination.*" (emphasis added) See Shiloh at paragraph [0056].

**Examiner's response: (For all independent claims 19, 27, 28, 30, 34 and 35)**

What the Applicant is arguing is one of the alternatives which do not have that is offered by Siloh at para. [0034] In some embodiments of the invention, the AVPP may create its own line of virtual products, which may be offered to the AVPP users. In one embodiment, the AVPP may create a series of exclusive, e.g., copyrighted and/or trademarked, virtual personalities, having predefined attributes, preferably including an audio-visual representation, that may be purchased by the AVPP users. A buyer of such a predefined virtual personality may become the legal owner of the intellectual property rights to the virtual personality, and may use it on the Internet to engage in any of the Internet activities described above, for example, using a virtual transaction account. Additionally or alternatively, each AVPP user may be able to construct a customized virtual entity, using tools provided by the AVPP."

Siloh teaches as stated above that the virtual personalities are readily available. As such Shiloh does not teach away from the claimed invention.

**Applicant's argument: (For all independent claims 19, 27, 28, 30, 34 and 35)**

Siloh does not teach "character selection means for selecting said character from among characters of which image data is stored in said storage means based on user feature information indicative of a user and at least one other person of said information processing device and said character feature information wherein the character selected is the same as the at least one other person" or "selecting said character from among characters of which image data is stored in said storage control step on the

basis of user feature information indicative of a user and at least one other person of said information processing device and said character feature information."

Shiloh, does not teach "independent claims 30, 34, and 35 have been amended to recite, in part, "wherein the predetermined character is the same for at least two users of the network."

**Examiner's response: (For all independent claims 19, 27, 28, 30, 34 and 35)**

Siloh teaches at para. [0020] The phrases "virtual entity", "virtual user" and "virtual personality", as used throughout the application, refer to an imaginary entity created solely for the purpose of interacting with a communication network."

"As described in detail below, a virtual entity in accordance with the invention may be provided with an e-mail account, virtual credit card information, e.g., a virtual credit card number and expiration date, an imaginary name, an imaginary address, a virtual social security number, and any other data that may be required for the Internet activity of the virtual entity. Once a virtual entity is created, in accordance with the invention, the virtual entity preferably interacts on the Internet just like a real entity would interact on the Internet."

"However, the activity of the virtual entity is preferably controlled by a real entity. Thus, the personality of the real entity, e.g., its unique interests, preferences, spending habits, or any other unique aspects of the real entity, may affect the way in which a corresponding virtual entity functions as an Internet user. For example, the real entity may seek only certain types of information or certain types of services or transactions

available on the Internet and, therefore, various personality traits of the real entity may be reflected in the virtual entity."

Thus Siloh teaches "real entity" controls the activity of the virtual entity and the personality of the real entity, e.g., its unique interests, preferences, spending habits, or any other unique aspects of the real entity, may affect the way in which a corresponding virtual entity functions as an Internet user. Thus, Siloh teaches " character selection means for selecting said character from among characters of which image data is stored in said storage means based on user feature information indicative of a user and at least one or more other person (at least two users of the network) of said information processing device and said character feature information wherein the character selected is the same as the at least one or more other person (at least two users of the network.)

Additionally Siloh teaches at para. [0023] One aspect of having a virtual personality is the power of reversibility. If something goes wrong in the Internet "life" of the virtual entity, for example, a romantic misunderstanding or an unsuccessful business venture, the real user always has the option to replace the virtual personality with a new virtual personality. In the process of building a new personality, the real user may have an opportunity to correct the mistakes of the previous virtual personality, even when interacting with the same entities. In contrast to the real life of the user, the Internet life of the virtual personality may be eternal, and may be continued by successors of the real user. Further, two or more real users may share the same virtual personality in a joint account, to create a more complex virtual personality."

Thus, also Siloh teaches " character selection means for selecting said character from among characters of which image data is stored in said storage means based on user feature information indicative of a user and at least one or more other person (at least two users of the network) of said information processing device and said character feature information wherein the character selected is the same as the at least one or more other person (at least two users of the network.)

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 19, 27, 28, 29, 30, 34, 35 and 36 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

These claims contain amendments that are presented and argued as above, are not found in the preliminary amendment dated November 2, 2005 as stated by the Applicant.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless-

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the

United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 19-36 are rejected under 35 U.S.C. 102(e) as being anticipated by Shiloh (US 2001/0037316 A1).

**Referring to claim 19,**

Shiloh teaches an information management device for managing content provision to an information processing device connected to said information management device via a network (ABSTRACT), comprising:

storage means for storing image data for displaying an image of a character and character feature information indicative of said character (Fig.5, element 68 is a character and “user profile” of Fig. 4 is virtual personality data is character feature.);

character selection means for selecting said character from among characters of which image data is stored in said storage means based on user feature information indicative of a user and at least one other person of said information processing device and said character feature information wherein the character selected is the same as the at least one other person (para. [0034], [0056] para. [0023] One aspect of having a virtual personality is the power of reversibility. If something goes wrong in the Internet "life" of the virtual entity, for example, a romantic misunderstanding or an unsuccessful business venture, the real user always has the option to replace the virtual personality with a new virtual personality. In the process of building a new personality, the real user may have an opportunity to correct the mistakes of the previous virtual personality, even when interacting with the same entities. In contrast to the real life of the user, the Internet life of the virtual personality

may be eternal, and may be continued by successors of the real user. Further, two or more real users may share the same virtual personality in a joint account, to create a more complex virtual personality.");

image data transmission means for transmitting, to said information processing device, said image data of said character selected by said character selection means (para. [0085], [0086]); and

content transmission means for transmitting content associated with said character selected by said character selection means to said information processing device (para. [0022], [0023]).

**Referring to claim 20,**

Shiloh teaches the information management device according to claim 19, further comprising:

content selection means for selecting said content associated with said character selected by said character selection means on the basis of said user feature information (para. [0085], [0087]).

**Referring to claim 21,**

Shiloh teaches the information management device according to claim 19, further comprising:

evaluation information acquisition means for acquiring evaluation information indicative of an evaluation of said content used on said information processing device (para. [0073]);

wherein said character selection means updates said user feature information in accordance with said evaluation 'information acquired by said evaluation information acquisition means, thereby selecting said character on the basis of said updated user feature information and said character feature information (para. [0073]).

**Referring to claim 22,**

Shiloh teaches the information management device according to claim 19, further comprising:

charging means for charging, to said information processing device, a fee of said content transmitted by said content transmission means (para. [0027], [0034]).

**Referring to claim 23,**

Shiloh teaches the information management device according to claim 19, further comprising:

identification information reception means for receiving, from said information processing device, identification information held in an object read by said information processing device; wherein said character selection means selects a character which is represented by an image in accordance with an external shape of said object on the basis of said identification information received by said identification information reception means (para. [0022], [0023], [0085]).

**Referring to claim 24,**

Shiloh teaches the information management device according to claim 19, further comprising:

transmission management means for managing the transmission of said content to said information processing device by transmitting information about access to another information processing device to which said content is provided and identification information of said content to said information processing device (para. [0086]).

**Referring to claim 25,**

Shiloh teaches the information management device according to claim 19, further comprising:

user feature information extraction means for extracting said user feature information based on an input by said user of said information processing device, said input being transmitted from said information processing device (para. [0085]).

**Referring to claim 26,**

Shiloh teaches the information management device according to claim 19, further comprising:

input information acquisition means for acquiring input information of said user including said user feature information indicative of a feature of a user for selecting said character or said content (para. [0085]).

**Referring to claim 27,**

Claim 27 is a claim to an information management method for an information management device of claim 19. Therefore claim 27 is rejected for the reasons set forth for claim 19.

**Referring to claim 28,**

Claim 28 is a claim to a recording medium recording a computer-readable program for an information management device of claim 19. Therefore claim 18 is rejected for the reasons set forth for claim 19.

**Referring to claim 29,**

Claim 29 is a claim to a computer product embodied in a computer readable medium storing a program for making a computer for controlling an information management device of claim 19. Therefore claim 29 is rejected for the reasons set forth for claim 19.

**Referring to claim 30,**

Shiloh teaches the information processing device connected, via a network, to an information management device for managing content provision (Abstract), comprising:

image data reception means for receiving image data of a predetermined character transmitted from said information management device wherein the predetermined character is the same for at least two users of the network (Fig.5, element 68 is a character image data. para. [0034], [0056] para. [0023] One aspect of having a virtual personality is the power of reversibility. If something goes wrong in the Internet "life" of the virtual entity, for example, a romantic misunderstanding or an unsuccessful business venture, the real user always has the option to replace the virtual personality with a new virtual personality. In the process of building a new personality, the real user may have an opportunity to correct the mistakes of the previous virtual personality, even when interacting with the same entities. In contrast to the real life of

the user, the Internet life of the virtual personality may be eternal, and may be continued by successors of the real user. Further, two or more real users may share the same virtual personality in a joint account, to create a more complex virtual personality.”

display means for displaying said predetermined character based on said image data received by said image data reception means (Fig.5, element 68);

content acquisition means for acquiring content associated with said predetermined character displayed by said display means (Fig.5, element 68, para. [0034], [0056], [0085]); and

output means for outputting said content acquired by said content acquisition means (Fig.5, element 68, para. [0034], [0056], [0085]).

**Referring to claim 31,**

Shiloh teaches the information processing device according to claim 30, further comprising: evaluation information transmission means for accepting input of an evaluation associated with said content outputted by said output means and transmitting evaluation information indicative of said evaluation to said information management device (para.[0073]).

**Referring to claim 32,**

Shiloh teaches the information processing device according to claim 30, further comprising: read means for reading identification information from an object in which said identification information is held; and identification information transmission means for transmitting said identification information read by said read

means to said information management device (Fig.5, element 68, para. [0034], [0056], [0080], [0081], [0085]).

wherein said image data reception means receives image data for displaying an image corresponding to an external shape of said object selected by said information management device on the basis of said identification information (Fig.5, element 68, para. [0034], [0056], [0080], [0081], [0085]).

**Referring to claim 33,**

Shiloh teaches the information processing device according to claim 30, wherein, based on information about access to another information processing device to which said content is provided and identification information of said content, said information being transmitted from said information management device, said content acquisition means acquires said content from said another information processing device (para. [0034], [0056], [0080], [0081], [0085]).

**Referring to claim 34,**

Claim 34 is a claim to an information management method for an information management device of claim 30. Therefore claim 34 is rejected for the reasons set forth for claim 30.

**Referring to claim 35,**

Claim 35 is a claim to a recording medium recording a computer-readable program for an information management device of claim 30. Therefore claim 35 is rejected for the reasons set forth for claim 30.

**Referring to claim 36,**

Claim 36 is a claim to a computer product embodied in a computer readable medium storing program for making a computer for controlling an information management device of claim 30. Therefore claim 36 is rejected for the reasons set forth for claim 30.

***Conclusion***

**Examiner's note:** Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.\

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ASHOK B. PATEL whose telephone number is (571)272-3972. The examiner can normally be reached on 6:30 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on (571) 272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ashok B. Patel/

Primary Examiner, Art Unit 2154